

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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GERALD G. PENOVICH,

Civil No. 09-0602 (JRT/JJK)

Petitioner,

v.

**ORDER ADOPTING REPORT  
AND RECOMMENDATION**

WARDEN M. CRUZ AND M.  
SCHAPPAUGH,

Respondents.

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The above-entitled matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge Jeffrey J. Keyes dated January 20, 2010. Based upon the Report and Recommendation of the Magistrate Judge [Docket No. 11], and all of the files, records and proceedings herein, and no objections having been filed to said Report and Recommendation,

**IT IS HEREBY ORDERED** that:

1. Respondents' Motion to Dismiss [Docket No. 8], is **GRANTED**;
2. Petitioner's Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 and Writ of Mandamus Pursuant to 28 U.S.C. § 1361 [Docket No. 1], is **DISMISSED AS MOOT**; and
3. This action is **DISMISSED WITH PREJUDICE**.

**LET JUDGMENT BE ENTERED ACCORDINGLY**

Dated: February 9, 2010  
at Minneapolis, Minnesota

s/ John R. Tunheim  
JOHN R. TUNHEIM  
United States District Judge